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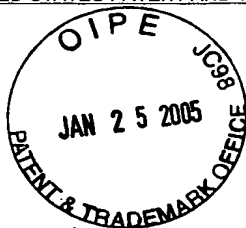
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: John L. WADDELL et al.

Appln. No. 10/630,897

Date Filed: July 31, 2003

For: ACOUSTIC SHOCK WAVE ATTENUATING ASSEMBLY



Art Unit: 3641

Examiner: STEPHEN JOHNSON

Washington, D.C.

Atty.'s Docket: WADDELL=1

Date: January 25, 2005

Confirmation No. 9607

THE COMMISSIONER OF PATENTS
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop Amendment
401 Dulany Street
Alexandria, VA 22314

Sir:

Transmitted herewith is a [XX] REPLY: RESTRICTION REQUIREMENT AND REMARKS in the above-identified application.

[] Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

[XX] No additional fee is required.

[] The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)		(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA EQUALS
TOTAL	* 10	MINUS	** 20		0
INDEP.	* 1	MINUS	*** 3		0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					

ADDITIONAL FEE TOTAL

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 25	\$
x 100	\$
+ 180	\$
ADDITIONAL FEE TOTAL	
\$	

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 50	\$
x 200	\$
+ 360	\$
TOTAL	
\$	

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- [] First - \$ 60.00
- [] Second - \$ 225.00
- [] Third - \$ 510.00
- [] Fourth - \$ 795.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

- [] First - \$ 120.00
- [] Second - \$ 450.00
- [] Third - \$ 1020.00
- [] Fourth - \$ 1590.00

Month After Time Period Set

[] Less fees (\$) already paid for ___ month(s) extension of time on _____.

[] Please charge my Deposit Account No. 02-4035 in the amount of \$ _____.

[] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ _____.

[] A check in the amount of \$ _____ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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By: 
Anne M. Kornbau
Registration No. 25,884



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: WADDELL=1

In re Application of:)	Art Unit: 3641
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John L. WADDELL et al.)	Examiner: STEPHEN JOHNSON
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Appln. No.: 10/630,897)	Washington, D.C.
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Filed: July 31, 2003)	Confirmation No. 9607
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For: ACOUSTIC SHOCK WAVE)	January 25, 2005
ATTENUATING ASSEMBLY)	

REPLY TO RESTRICTION REQUIREMENT AND REMARKS

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop Amendment
401 Dulany Street
Alexandria, Virginia 22314

Sir:

The Office Action mailed January 3, 2005, in the nature of a requirement for restriction, has been carefully reviewed. Favorable consideration is respectfully requested.

Restriction has been required among what the Examiner considers to be patentably distinct inventions, as follows:

a. Species A, directed to an assembly for attenuating shock waves that includes a shock attenuating material that is perlite;

b. Species B, directed to an assembly for attenuating shock waves that includes a shock attenuating material that is aqueous foam;

c. Species C, directed to an assembly for attenuating shock waves that includes a shock attenuating material that is aerogel; and

d. Species D, directed to an assembly for attenuating shock waves that includes a shock attenuating material that is polystyrene balls.

Applicant hereby elects, with traverse, Species A, directed to an assembly for attenuating shock waves that includes a shock attenuating material that is perlite, currently including claims 1, 2, 5, 7, and 8.

This election is made with traversed because it is believed that all of the species are part of the same invention, namely, an assembly for attenuating shock waves comprising two flexible sheets having cells or recess in which a shock attenuating material is disposed. Perlite, aqueous foam, aerogel and polystyrene balls are all material for attenuating shock waves. What is important for the present invention is that the shock attenuating material is encased in a flexible assembly that can be made to conform to any desired shape to be protected from shock damage.

This restriction requirement is traversed on the basis of MPEP Section 803, that requires that the examiner examine the application on the merits if the search and examination of an entire application can be made without serious burden, even though it includes claims to independent or distinct invention.


If the restriction requirement is maintained, it will be clear on the record that the PTO considers the twenty eight groups to be patentably distinct from one another i.e., *prima facie* non-obvious from one another. This means that a reference identical to the one group would not render the other group *prima facie* obvious.

Favorable consideration is respectfully requested.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



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